

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

In re:

Jimmy D. Brock
Lydia J. Brock
Debtors.

Case No. 18-bk-32486
Chapter 13
Judge Beth A. Buchanan

**MOTION TO DISMISS CHAPTER 13
CASE WITH MEMORANDUM IN SUPPORT**

Home Builders Finance, Inc. ("Home Builders"), a creditor of Debtor Jimmy D. Brock ("Debtor") and a party in interest, moves this Court for an Order dismissing this Chapter 13 bankruptcy proceeding for cause pursuant to §§ 105 and 1307(c) of the United States Bankruptcy Code. For the reasons set forth in Home Builder's Motion for Order Confirming Inapplicability of Automatic Stay with Memorandum in Support ("Inapplicability of Stay Motion") filed herein ([dckt 25](#)), and Home Builder's Motion For Relief From Stay And Relief From Co-Debtor Stay With Memorandum In Support ("Stay Motion") ([dckt 26](#)), Debtor's bankruptcy proceeding was not filed in good faith and a lack of good faith is "cause" for dismissal.

MEMORANDUM IN SUPPORT

The law, arguments, and facts (including the documents attached to Home Builder's Inapplicability of Stay Motion and Home Builder's Stay Motion) are hereby incorporated by reference. For the reasons set forth in the Inapplicability of Stay Motion ([dckt 25](#)) and the Stay Motion ([dckt 26](#)), the current bankruptcy proceeding was filed with a lack of good faith. The filing of a Chapter 13 bankruptcy case with a lack of good faith is "cause" for the dismissal of

the case. *See In re Duruji*, 287 B.R. 710, 713 (Bankr. S.D. Ohio 2003). If a Chapter 13 case is filed in bad faith, the case can be dismissed for cause. *See In re Alt*, 305 F3d 413, 418-19 (6th Cir. 2002). “The key inquiry in such cases is whether the debtor is seeking to abuse the bankruptcy process.” *Id.*

For the reasons set forth in the Inapplicability of Stay Motion (dckt [25](#)) and the Stay Motion (dckt [26](#)), the Debtor’s bankruptcy was filed in bad faith and Debtor is seeking to manipulate and abuse the bankruptcy process. Therefore, this case should be dismissed.

/s/ John E. Haller

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Attorneys for Creditor Home Builders Finance, Inc.

CERTIFICATE OF SERVICE WITH 21-DAY NOTICE OF MOTION

Creditor Home Builders Finance, Inc., by counsel, has filed its **MOTION TO DISMISS CHAPTER 13 CASE WITH MEMORANDUM IN SUPPORT** in this case. Notice is hereby given that unless a responsive pleading is filed within **21 days** from the date of this service, an order granting the foregoing **MOTION TO DISMISS CHAPTER 13 CASE WITH MEMORANDUM IN SUPPORT** may be issued by the Court without further notice or hearing as provided by LBR 9013-1(b). If you do not want the court to grant the relief sought in the Motion, then on or before **twenty-one (21) days from the date set forth below in this certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk, U.S. Bankruptcy Court, Southern District of Ohio, 120 West Third Street, Dayton, Ohio 45402 **or** your

attorney must file a response using the court's ECF system. The court must receive your response on or before the above date. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

You must also send a copy of your response either by (1) the court's ECF system or by (2) regular U.S. Mail to:

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The undersigned further certifies that a copy of the **MOTION TO DISMISS CHAPTER 13 CASE WITH MEMORANDUM IN SUPPORT** was served upon the following parties via the Court's ECF system at the email address registered with the court¹ or by ordinary U.S. mail, postage prepaid,² on October 1, 2018:

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